

§31.19

17 CFR Ch. I (4-1-11 Edition)

in which to respond to a margin call. Twenty-four hours, excluding Saturdays, Sundays, and holidays, will be a reasonable time: *Provided, however,* That in the event the leverage customer's leverage account equity falls below 50 percent of aggregate minimum margin with respect to the leverage contracts therein, the leverage transaction merchant may liquidate sufficient contracts to restore minimum margin without prior notice: *Provided, further,* That the leverage customer must be notified of such liquidation within no more than 24 hours thereafter and must be permitted to re-establish his contract for a period of 5 business days at the then prevailing bid price in the case of a long leverage contract and at the then prevailing ask price in the case of a short leverage contract, without commissions, fees or other mark-ups or charges. If a termination charge was assessed by the leverage transaction merchant upon liquidation of a contract in accordance with the first proviso of this paragraph, such a charge must be rescinded upon re-establishment of the contract in accordance with the second proviso of this paragraph.

(c) A record of all margin calls, including all contacts with leverage customers and attempts to contact leverage customers with respect to such calls, shall be kept by the leverage transaction merchant in accordance with the provisions of §31.14.

(d) Leverage contracts liquidated by a leverage transaction merchant because of a margin deficiency must be liquidated in declining order of loss, commencing with the leverage contract with the greatest loss.

(Secs. 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982))

[49 FR 5540, Feb. 13, 1984, as amended at 50 FR 34, Jan. 2, 1985; 50 FR 36416, Sept. 6, 1985]

§31.19 Unlawful representations.

It shall be unlawful for any person:

(a) Required to be registered with the Commission in accordance with §§3.17 and 3.18 of this chapter expressly or impliedly to represent that the commission, by registering that person or by registering the leverage commodity which underlies contracts offered for

sale or purchase, or sold or purchased by that person, or otherwise, has directly or indirectly approved that person, the person's method of operation, or any leverage commodity or leverage contract solicited or accepted by that person;

(b) To represent in writing that it is registered with the Commission or that it is offering any leverage commodity registered with the Commission without also stating in writing in connection with that representation that the Commission, by registering that person or the leverage commodity which underlies contracts offered for sale or purchase or sold or purchased by that person, has not directly or indirectly approved the person, the person's method of operation, or any leverage commodity or contract solicited or accepted by that person; or

(c) In or in connection with an offer to enter into, the entry into, the confirmation of the execution of, or the maintenance of any leverage contract, expressly or impliedly to represent that compliance with the provisions of the Act and these regulations constitutes a guarantee of the fulfillment of the leverage contract.

(Secs. 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982))

[49 FR 5540, Feb. 13, 1984, as amended at 50 FR 34, Jan. 2, 1985]

§31.20 Prohibition of guarantees against loss.

(a) No leverage transaction merchant shall in any way represent that it will, with respect to any leverage contract in any account carried by the leverage transaction merchant for or on behalf of any person:

(1) Guarantee such person against loss;

(2) Limit the loss of such person; or

(3) Not call for or attempt to collect initial, minimum or maintenance leverage margin established for customers.

(b) No person shall in any way represent that a leverage transaction merchant will engage in any of the acts or practices described in paragraphs (a)(1), (a)(2) or (a)(3) of this section.

(c) This section shall not be construed to prevent a leverage transaction merchant from assuming or sharing in the losses resulting from an error or mishandling of an order.

(d) This section shall not affect any guarantee entered into prior to the effective date of this section, but this section shall apply to any extension, modification or renewal thereof entered into after such date.

[49 FR 5540, Feb. 13, 1984]

§ 31.21 Leverage contracts entered into prior to April 13, 1984; subsequent transactions.

Nothing contained in these regulations shall be construed to affect any lawful activities that occurred prior to April 13, 1984. All leverage contracts offered or entered into on or after April 13, 1984 shall be subject to the terms and conditions of these regulations.

[54 FR 41082, Oct. 5, 1989]

§ 31.22 Prohibited trading in leverage contracts.

No futures commission merchant or introducing broker shall offer to enter into, enter into, confirm the execution of, or solicit or accept orders for any leverage contract.

[54 FR 41082, Oct. 5, 1989]

§ 31.23 Limited right to rescind first leverage contract.

(a) A leverage customer who is entering a leverage contract or contracts for the first time with a particular leverage transaction merchant may rescind such contract or contracts during a period of not less than three business days from and including the day on which the leverage customer receives the Confirmation Statement pursuant to the following provisions:

(1) Such customer may be assessed actual price losses accruing to the customer's position from the time at which the customer entered into a leverage contract to the time that the leverage contract was rescinded. Such losses do not extend to any other charges or fees, such as account initiation, carrying, margin or account termination;

(2) In the case of a leverage customer whose initial leverage transaction was

a purchase of a leverage contract from a leverage transaction merchant (long leverage contract), actual losses accruing to the position may be calculated only by subtracting the ask price of the leverage contract offered by the leverage transaction merchant at the time when the leverage contract was rescinded from the ask price at which the leverage contract was purchased by the leverage customer and which appears on the Confirmation Statement. In the case of a leverage customer whose initial leverage transaction was a sale of a leverage contract to a leverage transaction merchant (short leverage contract), actual losses are calculated by subtracting the bid price at which the leverage contract was sold by the leverage customer and which appears on the Confirmation Statement from the bid price of the leverage contract offered by the leverage transaction merchant at the time when the leverage contract was rescinded.

(3) Such customer may rescind the contract by telegram sent to the leverage transaction merchant at the address provided on the confirmation statement, or by telephone to a telephone number provided by the leverage transaction merchant on the Confirmation Statement with immediate written affirmation of rescission by telegram, certified letter or at least equivalent means.

(b) A leverage transaction merchant must make complete refund of all monies received except for actual price losses as calculated in paragraph (a)(2) of this section, to the leverage customer who has rescinded a contract pursuant to paragraph (a) of this section within 24 hours of notification of rescission.

(Secs. 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982))

[49 FR 5540, Feb. 13, 1984, as amended at 50 FR 34, Jan. 2, 1985]